



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1382

~~essential businesses; firearms; ammunition; sales~~
(NOW: essential businesses; civil actions; ammunition)

Purpose

Prohibits a person from commencing outlined civil liability actions against a manufacturer or seller of firearms or a trade association that meets specified criteria. Deems a store that sells firearms, ammunition or components of either an essential business and protects such a business from a qualified civil liability action.

Background

Statute allows the Governor to proclaim a state of emergency in an area affected or likely to be affected if the Governor finds that the circumstances that define a state of emergency exist. A *state of emergency* means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons or property within Arizona caused by air pollution, fire, flood, storm, epidemic, riot, earthquake or other causes, except those resulting in a state of war emergency, which are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county, city or town, and which require the combined efforts of the state and the political subdivision (A.R.S. §§ [26-301](#) and [26-303](#)).

The emergency powers of the Governor, the Adjutant General or any other official or person do not allow the imposition of additional restrictions on the lawful possession, transfer, sale, transportation, carrying, storage, display or use of firearms or ammunition or components of either ([A.R.S. § 26-303](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Deems a store that sells firearms, ammunition or components of either an essential business and protects such a store from a qualified civil liability action.
2. Prohibits a person from commencing a qualified civil liability action.
3. Requires the prevailing party in an action filed as a qualified civil liability action to recover reasonable attorney fees and costs.
4. Defines *qualified civil liability action* as a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product or a trade association for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, penalties or other relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, not including:

- a) an action brought by a party directly harmed by the conduct of a transferor convicted of transferring a firearm, knowing that it would be used to commit a violent or drug trafficking crime or knowing or having reason to know that it would be used to commit a felony, against the transferor;
 - b) an action brought against a seller for negligent entrustment or negligence per se;
 - c) an action in which a manufacturer or seller of a qualified product knowingly violated a state or federal law applicable to the sale of the qualified product and the violation was a proximate cause of the harm for which relief is sought, including:
 - i. any case in which the manufacturer or seller knowingly made any false entry in or failed to make appropriate entry in any record required to be kept under federal or state law with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product;
 - ii. any case in which the manufacturer or seller aided, abetted or conspired with any other person to sell or otherwise dispose of a qualified product, knowing or having reasonable cause to believe that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition pursuant to U.S. Code;
 - iii. an action for breach of contract or warranty in connection with the purchase of the qualified product;
 - iv. an action for death, physical injury or property damage resulting directly from a defect in the design or manufacture of the qualified product, when used as intended or in a reasonably foreseeable manner, except that if the discharge of the qualified product was caused by a volitional act that constituted a criminal offense, the act is considered the sole proximate cause of any resulting death, personal injury or property damage; or
 - v. an action or proceeding commenced by the U.S. Attorney General to enforce federal regulations of firearms or criminal street gangs.
5. Defines *qualified product* as a firearm, including an antique firearm, ammunition or a component of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.
6. Defines *engaged in the business* as:
- a) as applied to a manufacturer of firearms, a person who devotes time, attention and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the manufactured firearms;
 - b) as applied to a manufacturer of ammunition, a person who devotes time, attention and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the manufactured ammunition;
 - c) as applied to a dealer in firearms, a person who devotes time, attention and labor to:
 - i. dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms but does not include a person who makes occasional sales, exchanges or purchases of firearms for the enhancement of a personal collection or for a hobby or who sells all or part of the person's personal collection of firearms;
 - ii. engaging in the activity as a regular course of trade or business with the principal objective of livelihood and profit but does not include a person who makes occasional repairs of firearms or who occasionally fits special barrels, stocks or trigger mechanisms to firearms;

- d) as applied to an importer of firearms, a person who devotes time, attention and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the imported firearms; or
 - e) as applied to an importer of ammunition, a person who devotes time, attention and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the imported ammunition.
7. Defines *negligent entrustment* as supplying a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.
 8. Defines *with the principal objective of livelihood and profit* as the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain as opposed to other intents, including improving or liquidating a personal firearms collection.
 9. Defines *manufacturer*, with respect to a qualified product, as a person who is engaged in the business of manufacturing the product in interstate or foreign commerce and who is licensed to engage in business.
 10. Defines *seller*, with respect to a qualified product, as:
 - a) an importer who is engaged in the business as an importer in interstate or foreign commerce and who is licensed to engage in business as an importer;
 - b) a dealer who is engaged in the business as a dealer in interstate or foreign commerce and who is licensed to engage in business as a dealer; or
 - c) a person who is engaged in the business of selling ammunition in interstate or foreign commerce at the wholesale or retail level.
 11. Defines *trade association* as any corporation, unincorporated association, federation, business league or professional or business organization that:
 - a) is not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;
 - b) is a business league, chamber of commerce or real-estate board that is exempt from tax; and
 - c) two or more members of which are manufacturers or sellers of a qualified product.
 12. Makes technical changes.
 13. Becomes effective on the general effective date.

Amendments Adopted by the House of Representatives

1. Prohibits a person from commencing a qualified civil liability action.
2. Removes the proposed prohibition against restricting the normal operations of a store that sells firearms, ammunition or components of either.
3. Defines key terms.

FACT SHEET – Amended

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Senate Action

JUD	2/4/21	DP	5-3-0
3 rd Read	3/3/21		16-14-0

House Action

JUD	3/24/21	DP	6-4-0
3 rd Read	4/27/21		31-29-0

Prepared by Senate Research

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